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October 19, 2004

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LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

Montana Fish, Wildlife, and Parks
c/o Tom Greason
1400 South 19th Avenue
Bozeman, MT 59718

Re: Environmental Assessment of Henneberry Fishing Access Site Walk-in Parking Lot
Development, October 7, 2004

Dear Mr. Greason and all interested parties:

After our 10/12/04 telephone conversation, I thoroughly perused the 12/07/04 Environmental Assessment regarding the Henneberry Parking site. It is problematic in that it is inadequately researched and fails to consider a number of potentially provocative issues. The central problem, that makes the assessment flawed, is that it is based on abnormally low water levels that exist only because of the prolonged drought in this region.

One concern is my irrigation ditch easement which abuts both sites and may actually run through one of them. This Midge Henneberry Ditch was not even mentioned or identified in the report. I am in the process of having a head gate and flume installed at the mouth of this irrigation ditch. Cleaning the existing ditch and establishing a contoured V-furrow requires adequate egress on either side of the ditch. In the environmental assessment, no mention is made of this ditch; nor do the diagrams indicate that there is adequate space allotted for this endeavor. This oversight is but one example of a plan that doesn't take into consideration the needs or opinions of property owners adjacent to the project.

On page 18 of the assessment, there is a *Fish/Wildlife* chart. Under letter *f*, it indicates that there is only minor impact on a threatened species. At the bottom of the page, in section *5e*, the notation indicates that a bald eagle observation "was most likely based on a sighting of a migratory bird, as no evidence exists of nesting pairs or prolonged use by the species." In fact, at least one pair of bald eagles have used that exact area as a breeding and nesting ground for many years. At the right time of year, this pair and their young are very conspicuous. In the spring of the two years since my residence was built on the Beaverhead, I have observed this pair on many occasions in the cottonwood trees within the area of the project. Former landowners and users can attest to the fact that in years past, this, or another pair built their nest in a cottonwood tree adjacent to the path that fishermen use to access the river from the frontage road. If the existing parking lot plan is completed as now proposed, the habitat of this nesting pair of bald eagles could be severely impacted. Also, what appears to be a ferruginous hawk has also been sighted in the vicinity.

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While there is a need for off-road parking spaces in this area, I feel that the number of spaces proposed in the diagrams (seven in one lot and eight in the other) is too great. Most cars that currently park in the area in question contain more than one occupant. The eight spaces proposed in the south lot, and the seven proposed for the north lot open the door for 15 total cars and up to 20-30 fishermen or hunters. Under normal water conditions, this particular stretch of the Beaverhead River cannot support the number of fishermen fifteen spaces would encourage. At the current low water level, fishermen can easily wade and access the various channels and sloughs in that region of the river. However, when the water is at normal, rather than drought levels, it is too high and fast-moving to allow safe entry to the other channels; hence, fishermen would be encouraged to trespass on our property or on our neighbor's property to the south. Or, if they should attempt to ford the river at normal flow, they would risk being swept away.

The issue of trespassing relates to *Section 7, Land Use*, on page 19. The chart indicates in box *a*. that there would not be alteration of, or interference with, the productivity or profitability of the existing land use. If the proposed increase in parking substantially increases the number of users and trespassers, this project will, in fact, lower the value of the two adjoining properties, adversely affecting the marketability of both. Historically, trespassing enforcement in this area has been lax. Nobody wants to buy property that is overrun by trespassers. The researchers should have contacted the owners before establishing the claim made in this proposal. If they had done so, they would have reached an entirely different conclusion.

Another area of concern is mentioned under *Section 4, Vegetation*, on page 17. On line *e*. it says that the possible spread of noxious weeds would be a minor problem. Actually, this could be a major problem because there is currently a serious weed problem in that parcel of state ground. I recently called Tom Greason to report a large Spotted Knapweed infestation in the proposed site, and I have also noticed a serious Canadian Thistle infestation there. I even called the county weed control people and had them come out to spray the Knapweed. This situation can only worsen with more foot traffic and I am worried that it will spread to my property as well. Current usage of the area involves 3-5 cars daily. If that is multiplied by three to five times as called for in the proposal, the spread of noxious weeds could become greatly intensified.

Related to the spread of noxious weeds is the ongoing issue of winter grazing on the land in question. This land is leased to cattle grazers, but is not fenced across the river. This allows animals to wander onto my property and carry noxious weed seeds with them. This problem needs to be addressed.

Also in *Section 4, line f*, it indicates that the project will not have a negative impact on wetlands. This assertion is false. There is an extensive wetland area on the east bank of the east channel which would be most severely impacted by increased foot traffic. This is the only bank that fishermen or hunters can access during normal water flows. This wetland would be trampled and decimated by the increased usage in the current proposal.

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For all the above-mentioned reasons, I have reached the conclusion that this proposal needs to be reconsidered and revised. Much of the assessment is invalid because the facts are erroneous and it is based on abnormally low water levels. While it would be wise to provide a safe parking area for a few vehicles as is the current usage, the proposal as written could negatively impact endangered bald eagles, result in the spread of noxious weeds, further encourage the existent flagrant trespassing which depreciates the value of the adjacent properties, and put the safety of fishermen and hunters in jeopardy as they try to access other channels and wade across the fast-moving waters of the Beaverhead in normal flows.

I have two compromise solutions. The first is to construct two parking areas at the current access points with a maximum of three spaces at each and with adequate signage and warnings about trespassing. A better solution would be to remove the two existing access point signs and build one lot in the middle of the existing access areas with parking for 7-8 vehicles. The latter would reduce foot traffic in the eagle nesting site, and would avoid foot traffic concentration at the two property boundaries. My fencing has already been sabotaged because of the current path that abuts it for more than ¼ mile. My second proposal would reduce the likelihood of trespassing and offer safer access points to ford the river in normal, fast-moving water.

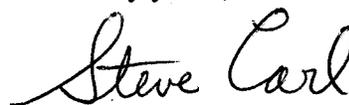
I am scheduled to meet with project coordinator, Tom Greason, of the Department of Fish, Wildlife, and Parks, on 10/27. At that time, we will walk the site of the proposed project and physically observe the area.

Hopefully, this letter and the upcoming meeting with Mr. Greason will result in a revised plan that is mutually acceptable to all parties.

Please keep me apprised of all developments. During the winter months, I am most easily reached by mail at the following address:

Steve Carl
4800 South Lake Park #1201
Chicago, IL 60615

Sincerely yours,



Cc: Patrick Flowers, Janet Ellis, James Jensen, the Dept. of Natural Resources and Conservation, the Dept. of Environmental Quality, the Environmental Quality Council, Todd O'Hair, the Dept. of Design and Construction of Montana Fish, Wildlife, and Parks, Joachim Kempin, and Jerry Carl.